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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/840,824	04/25/2001	Tsutomu Nakamura	Q62666	6099
7590	12/07/2004			
SUGHRUE, MION, ZINN, MACPEAK & SEAS 2100 Pennsylvania Avenue, N.W. Washington, DC 20037			EXAMINER	MAKI, STEVEN D
			ART UNIT	PAPER NUMBER
				1733

DATE MAILED: 12/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/840,824	NAKAMURA, TSUTOMU
	Examiner Steven D. Maki	Art Unit 1733
<i>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</i>		
<b>Period for Reply</b>		
<b>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</b>		
<ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>		
<b>Status</b>		
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>22 September 2004</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is <b>FINAL</b>.                    2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>		
<b>Disposition of Claims</b>		
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-9 and 12</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input checked="" type="checkbox"/> Claim(s) <u>3</u> is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1, 2, 4-9 and 12</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>		
<b>Application Papers</b>		
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p> <p style="margin-left: 20px;">Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).</p> <p>11)<input type="checkbox"/> The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.</p>		
<b>Priority under 35 U.S.C. § 119</b>		
<p>12)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p style="margin-left: 20px;">1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p style="margin-left: 20px;">2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p style="margin-left: 20px;">3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>		
<p>* See the attached detailed Office action for a list of the certified copies not received.</p>		
<b>Attachment(s)</b>		
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____</p> <p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____</p>		

- 1) The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Incorporation of the subject matter of "in a common curved plane" (claims 1, 2, 3 and 7) into the specification. It is suggested to amend the specification as follows: In the fourth full paragraph on page 8 of the specification, which was amended on 3-20-03, insert --in a common curved plane-- after "parallel to each other". The subject matter of this insertion is reasonably conveyed by the original disclosure (see for example figure 1) and would not therefore constitute new matter.
- 2) The rejection based on Peter et al has been withdrawn in view of the amendment to claim 1. There is no motivation to make Peter et al's tire a motorcycle tire.
- 3) The rejection based on the combination of Delias and Armellin has been withdrawn in view of the amendment to claim 1. With reference to figure 4 of Armellin, the cords of the cross belt members which are in a common curved plane are oriented in the same direction instead of opposite directions as claimed.
- 4) The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- 5) **Claims 1-2, 4-9 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Delias (US 5301730) in view of Suzuki (5795418).**

Delias and Suzuki are applied as in paragraph 8 of the last office action (paragraph 8 of the last office action is incorporated herein by reference).

With respect to "common curved plane", it would have been obvious to one of ordinary skill in the art to arrange the cross belt members in the tire resulting from the combination of Delias and Suzuki such that the cross belt members are in "a common curved plane" as claimed Suzuki shows arranging a pair of spaced cross belt members in a "common curved plane" (see figure 1 of Suzuki). It is acknowledged that the cross belt members of Suzuki are on an "inner" circumferential side of the spiral belt instead of the "outer" circumferential side of the spiral belt. However, Delias teaches improving motorcycle stability, drive ability and wear in both curve and straight line by arranging belt members on the outer side of the spiral belt *instead of the inner side of the spiral belt*. See examples 2 and 3 in the table at columns 3-4. Hence, Delias and Suzuki are in the same field of endeavor of motorcycle tires having a spiral cord belt and belt members. DELIAS motivates one of ordinary skill in the art to locate the cross belt members on the outer side of the spiral belt to *improve motorcycle stability, drive ability and wear in both curve and straight line* (examples 2 and 3). SUKUKI motivates one of ordinary skill in the art to use a pair of spaced cross belt members (in a common curved plane) instead of a multiply belt *to reduce tire weight and cost and to prevent deterioration of ride comfort and ground contact performance* (col. 3 lines 5-15).

Applicant's argument that Suzuki teaches arranging a pair of cross belt members on an inner side instead of an outer side is not persuasive since Delias teaches improving motorcycle stability, drive ability and wear in both curve and straight line by arranging cross belt members on the outer side of the spiral belt instead of the inner side of the spiral belt. See examples 2 and 3 in the table at columns 3-4.

With respect to mounting claims 1 and 2, Delias suggests using the tires on front and back tires of a motorcycle (co. 3 lines 8-9) and thereby suggests mounting the same tire on a front tire and a rear wheel. The cords of tires mounted in the same manner necessarily have the cords directed toward the forward direction or the reverse direction.

#### **Allowable Subject Matter**

6) **Claim 3 is allowed.**

**Claims 4-6 would be allowed as claims dependent on claim 3 if each of these claims is appropriately amended to depend on --claim 3-- instead of "any one of claims 1 to 3".**

When considered as a whole, the prior art of record including Delias, Suzuki and Ubukata et al (directed to high performance passenger car tires / racing tires instead of motorcycle tires) fails to suggest further modifying the combination of Delias and Suzuki so as to simultaneously satisfy the acute angle and obtuse angle requirements in the method of mounting first and second pneumatic radial motorcycle tires of claim 3. It is emphasized that applicant has shown that this particular mounting arrangement has improved high speed stability, shimmy, handling (quick response and neutral property) and corner gripping (gripping limit and slipping controllability). See comparative example and example 1 in Table 1.

7) Applicant's arguments with respect to claims 1-2, 4-9 and 12 have been considered but are moot in view of the new ground(s) of rejection.

With respect to claims 1-2, 4-9 and 12, applicant's arguments filed 9-22-04 have been fully considered but they are not persuasive.

8) Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9) Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine Copenheaver can be reached on (571) 272-1156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki  
December 3, 2004

STEVEN D. MAKI  
PRIMARY EXAMINER  
-GROUP 1300-

AV 1733

12-3-04